LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6543 | **NOTE PREPARED:** Jan 19, 2007
BILL NUMBER: HB 1227 | **BILL AMENDED:**

SUBJECT: Elimination of "throwback" rule.

FIRST AUTHOR: Rep. Harris T | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: This bill phases out the taxation of income resulting from out-of-state sales that are not taxed in another jurisdiction ("throwback rule").

Effective Date: January 1, 2008.

Explanation of State Expenditures: This bill will cause an indeterminable increase in administrative costs to the Department of State Revenue (DOR) in being required to amend forms, procedures, and computer software related to computation of a company's sales within Indiana. It is estimated that DOR could implement this provision through the use of existing staff and resources.

Explanation of State Revenues: This bill could cause an indeterminable decrease in Corporate Adjusted Gross Income Tax collections. The amount of the impact will ultimately be determined by the difference between the sales of tangible personal property that are attributable ("thrown back") to Indiana under current law versus the sales that would be attributable ("thrown back") to Indiana under the bill. All Corporate AGI Tax collections are deposited in the state General Fund. The bill phases out the "throwing back" of sales of tangible personal property when the sale is shipped from Indiana, and the shipper would not be taxed on that sale in the state of the delivery to the purchaser.

For example: An Indiana seller ships to a purchaser in State X, and either:

(1) State X does not require that the shipment from the Indiana seller be attributed to the computation of the seller's State X Corporate Tax liability; or
(2) State X exempts the shipment from Corporate Tax in State X.

Result under current law: The shipment by the Indiana seller would have to be attributed (included or "thrown back") to the Indiana seller's computation of Indiana Corporate AGI Tax liability.

Result under the bill: The shipment by the Indiana seller would (after 2011) *NOT* be included ("thrown back") in the computation of the seller's Indiana Corporate AGI Tax liability.

The phase out in the bill would require the following percentages to be "thrown back" to Indiana before the total phaseout of the "throw back" rule.
(1) 40% in CY 2008;
(2) 30% in CY 2009;
(3) 20% in CY 2010;
(4) 10% in CY 2011; and
(5) 0% for every transaction after January 1, 2012.

Background: In P.L. 162-2006, the General Assembly changed the "throw back" rule in IC 6-3-2-2 to require that any sales shipped to another state, regardless of the F.O.B. point, or other purchase contract requirements, to be thrown back if the shipper did not have to pay taxes on that shipment in the state of the purchaser. The law, prior to that change, would have allowed shippers to contract around the "throw back" rule if the shipment was not taxed in the state of the purchaser.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Adam Brown, 317-232-9854.